

SENATE JOURNAL OF THE IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-NINTH LEGISLATURE

FIRST LEGISLATIVE DAY
MONDAY, JANUARY 8, 2007

Senate Chamber

At the hour of 12 noon on Monday, January 8, 2007, the time established for the convening of the First Regular Session of the Fifty-ninth Idaho Legislature, the members of the Senate convened in the Senate Chamber of the Capitol in the city of Boise, President James E. Risch presiding.

Roll call showed all members present. [District 20 seat is vacant.]

Prayer was offered by Chaplain David Goebel, Reverend, Reflections Church, Meridian, Idaho.

President Pro Tempore Geddes provided a brief history of the Idaho State Flag flown over the domes of the House and Senate Chambers during each session of the Legislature. He explained that the Flags represent the spirit of our citizens and serve as a symbol of Idaho's sovereignty. They further serve notice to the State that the Legislature, the elected representatives of all the citizens of the Idaho, is in session. The flags are raised when the Legislature convenes and will be retired when the Legislature adjourns *sine die*. On request by President Pro Tempore Geddes, granted by unanimous consent, the Idaho Air and Army National Guard, represented by Mark Klaudt, Master Sergeant; Kylynn Wright, Technical Sergeant; Tricia Howerton, Sergeant; and Donald Sutton, Sergeant; entered the Chamber.

The Pledge of Allegiance was led by Sarah Jane McDonald, Senate Sergeant at Arms. President Risch presented the Idaho State flag to the Honor Guard to be raised above the Senate dome to fly during the First Regular Session of the Fifty-ninth Idaho Legislature and the Honor Guard exited the Chamber.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

January 8, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Shirley McKague of Meridian, Idaho, to the office of State Senator for Legislative District 20. She succeeds Senator Gerry Sweet and the appointment was effective January 4, 2007.

Sincerely,
/s/ C. L. 'Butch' Otter
Governor

THE OFFICE OF THE GOVERNOR EXECUTIVE DEPARTMENT BOISE, IDAHO CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that pursuant to the provisions of Section 59-904A, *Idaho Code*, the District 20 Legislative Committee of the Republican Party has submitted a list of three names for consideration in filling a vacancy in the Idaho State Senate.

NOW, THEREFORE, I, C. L. 'Butch' Otter, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Shirley McKague of Meridian, Idaho, to the office of State Senator, District 20, Ada County, State of Idaho, for a term commencing on January 4, 2007, and continuing until the next general election when the term of office expires.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this fourth day of January, in the year of our Lord two thousand and seven and of the Independence of the United States of America, the two hundred and thirtieth year.

/s/ BY THE GOVERNOR C. L. 'Butch' Otter
/s/ SECRETARY OF STATE BEN YSURSA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The President announced that the Oath of Office had been administered previously to Senator McKague, and she was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

Motions and Resolutions

On request by Senator Davis, granted by unanimous consent, the President appointed a committee consisting of Senator Andreason, Chairman, and Senators Bastian and Kelly to escort the committee from the House of Representatives into the Senate Chamber. Representatives Collins, Schaefer, and LeFavour informed the Senate that the House is now organized and ready to conduct business.

The Senate committee was discharged.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Ninth Order of Business.

Messages from the House

January 8, 2007

Mr. President:

I transmit herewith **HCR 1** which has passed the House.

JUKER, Chief Clerk

HCR 1 was filed for first reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading, and Reference of Bills,
House Petitions, Resolutions, and Memorials**

HCR 1, by Moyle and Jaquet, was introduced and read at length.

Moved by Senator Davis, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate consideration of **HCR 1** be suspended. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 35.

Total - 35.

More than two-thirds having voted in the affirmative, the President declared the rules suspended and announced that **HCR 1** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Davis, seconded by Senator Stennett, **HCR 1** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:30 p.m. for the purpose of attending a joint session to hear Governor Otter's State of the State and Budget Address, and the Chief Justice Schroeder's State of the Judiciary Address until the hour of 2:15 p.m. of this day.

JOINT SESSION

Pursuant to **HCR 1**, the hour of 1 p.m. having arrived, the members of the Senate entered into the House Chamber and met in Joint Session with Speaker Lawrence Denney presiding.

Roll call of the House showed all members present except vacant seats District 13 and District 20.

Roll call of the Senate showed all members present.

On request by Representative Moyle, granted by unanimous consent, the Speaker appointed three committees to wait upon the Supreme Court Justices and Appellate Court Judges, the elected officials, and the Governor and escort them to the House Chamber.

The Speaker appointed Senators Darrington and Kelly and Representatives Clark and Boe as the committee to wait upon and escort the Supreme Court Justices and Appellate Court Judges to the House Chamber.

The Speaker excused the committee.

The Speaker appointed Senators Stegner and Langhorst and Representatives Roberts and Rusche as the committee to wait upon and escort the elected officials to the House Chamber.

The Speaker excused the committee.

The Speaker appointed Senators Davis and Stennett and Representatives Moyle and Jaquet as the committee to wait upon and escort the Governor to the House Chamber.

The Speaker excused the committee.

Prayer was offered by Chaplain Jim Hardenbrook, Pastor Nampa Church of the Brethren, Nampa, Idaho.

The committees appointed by the Speaker returned and escorted the Supreme Court Justices, Appellate Court Judges, the elected officials, and the Governor into the House Chamber where they were presented to the Joint Session by the Speaker.

The Speaker introduced His Excellency, the Governor of the State of Idaho, C. L. "Butch" Otter, and the following **State of the State and Budget Address** was delivered by the Governor:

Mr. Speaker, Mr. President, Mr. Pro Tem, distinguished members of the Legislature, Mr. Chief Justice and distinguished members of the Judiciary, fellow Constitutional Officers, and my fellow Idahoans.

It's great to be back!

And it's wonderful to stand here today before so many dear friends – so many people I respect, admire and love.

A lot of water has passed under the bridge since I last appeared in this chamber in any official capacity. Much has changed ... for all of us.

Mr. Pro Tem ... Being back here in the Capitol brings back many pleasant memories of my time presiding over the Senate with your great leadership. Welcome back to Boise. I also look forward to working with our new Speaker ... Thank you for sharing your chamber with me today Mr. Speaker.

I also want to offer a special greeting to all my fellow freshmen with us here today. Like you, I'm still learning this job, folks. I'll do everything I can to make sure your time here goes smoothly, and I hope you'll do the same for me!

Here at the Statehouse and beyond, we all have been ably led during the past seven months by our 31st governor, who once again now is our Lieutenant Governor.

Mr. Lieutenant Governor, thank you for the outstanding service that you and Vicki have provided for the people of Idaho, and for your commitment to our great state. You have set the bar high as Idaho's chief executive, and I look forward to working together to continue that record of success.

Most importantly for me personally, Idaho has a great new First Lady. I have found a true partner in Lori. She shares my excitement and enthusiasm for this new chapter in our lives.

I want to thank the members of my transition team. They did an outstanding job of reviewing the status and needs of state government and recommending both personnel and program choices for my consideration. They have done the people of Idaho a tremendous service.

My former colleagues in Idaho's congressional delegation also deserve our thanks. We are richly blessed by their representation. I will miss our camaraderie and our day-to-day work together, but I look forward to our new relationship and to applying what I learned at their side in Congress to new challenges here at home.

I am deeply honored and humbled to stand before you today as Idaho's 32nd governor. I also congratulate those of you who recently were elected or re-elected, on both sides of the aisle. Senator Stennett and Representative Jaquet, I am eager to focus on our common goals and aspirations for the people of Idaho.

Certainly one of the lessons I learned in Congress is that partisan bickering gets us nowhere, so I look forward to a positive and constructive relationship with the minority party.

The citizens have entrusted us all with the responsibility of representing their interests to the best of our abilities. I am here today to discuss where Idaho stands, and how we can help to shape Idaho's future.

2006 was a banner year for Idaho's economy. Our three-point-three-percent unemployment rate was the lowest in history. Almost three-quarters of a million Idahoans were working last month – 23,000 more than a year earlier. Our exports approached a record \$4 billion last year, and only three states are creating jobs faster than Idaho.

In fact, I'm pleased to announce today that Hawaii-based Hoku Scientific has agreed to open a plant in Pocatello for manufacturing solar modules and polysilicon for the solar energy and integrated circuit markets. The company is investing \$250 million and will create over 200 jobs with a payroll of more than \$10 million a year.

That's just the latest good news in what's become an enviable record for Idaho. Maintaining it will require that we continue living within our means and that we remember it is the people – not the government – who deserve credit for whatever success we attain.

Our job is to create a political and economic climate that enables people to succeed. To that end, my administration will be based on firm principles, driven by sound data, and committed to customer service.

Today I am going to outline my plans for a state government that will continue delivering essential services, while being more user friendly and consumer focused.

During my terms as a member of Congress, I was consistently frustrated with our federal government's inability to operate with a balanced budget. As your governor, I now have the opportunity – **in fact, the constitutional mandate** – to submit a balanced budget. Today I do that with great pleasure.

Our revenue situation this past year has been robust. We have enough general fund revenue to meet all our budget obligations, and have accumulated a significant surplus. I commend the Legislature and the lieutenant governor for your foresight in applying most of the ongoing surplus to permanent property tax relief.

When faced with the option of using taxpayer dollars to permanently expand state government or enacting tax relief for our citizens, you made the wise choice.

For fiscal 2008, we will have enough revenue to maintain current operations – an estimated \$2.7 billion. Chairmen Cameron and Bell, I am recommending that we neither significantly expand existing programs nor add any major new initiatives would require a continuing revenue flow.

Idahoans have made it abundantly clear that raising taxes is not an option. That's no surprise to most of you. Those who doubt it need only look at the results of last year's election.

There is no doubt that Idahoans want leaner, more efficient and effective state government. That's reflected in my recommendation for a modest 3.1-percent increase in our base operating budget.

We have great public employees. But we're not yet providing the kind of competitive salaries needed to keep our most skilled public servants, or to attract the most qualified people to fill the vacancies when they leave. For too long we've shorted them on pay and then padded their benefits.

To begin changing that, it's my recommendation that we fully fund a 5-percent merit-based increase in employee compensation.

This is an important step toward making our state salaries more competitive. We need a more market-driven compensation package for our state employees, and I look forward to working with Chairmen Schaefer and Andreason to get it done.

We do have a substantial amount of one-time revenue that will be available in fiscal 2008. While it's tempting to use this money for permanent operations of state government, I urge you to be cautious in committing to ongoing expenditures. In recent months we've seen revenues coming in above projected levels. But our economic growth may begin cooling to a more sustainable level. So we must avoid putting ourselves in a situation that forces possible budget holdbacks later on.

Once again, I commend you for providing permanent property tax relief last year. But we must not rest on our laurels. I encourage you to continue looking for other opportunities to ease the burden on Idaho taxpayers, including the issue of personal property tax.

And there is one piece of tax relief that must be addressed here and now – the tax we pay on the purchase of groceries. I have carefully considered eliminating the sales tax on groceries. There clearly is a need to reduce the tax burden on lower-income individuals and families who must spend a disproportionate amount of their income on food. Simply eliminating the tax is an attractive idea, but the eventual \$180 million budget impact would be tough to absorb.

That's the equivalent of the combined general fund appropriations for the departments of Agriculture, Commerce and Labor, Environmental Quality, Lands, Parks and Recreation, Water Resources, Vocational Rehabilitation, Administration, Revenue and Taxation, all of the constitutional officers and the legislative and judicial branches.

I will not impose that burden on future state budgets. However, I will be submitting legislation to increase the grocery tax credit for lower-income Idahoans to as much as \$90 per person. It will be my pleasure to work closely with Chairmen Hill and Lake to accomplish that goal, and to advance other tax legislation.

The highest priority of our state budget always has been and continues to be education. Along with public safety, it is among the truly proper roles of our state government.

That's why I'm focusing what limited ongoing revenue is available on the highest priorities for both public schools and higher education. Our talented new State Superintendent of Public Instruction, Tom Luna, shares my commitment to providing a public school system focused on the needs of students and responsive to the concerns of their parents.

Tom understands we must provide greater focus on ensuring our students have the math and science skills they need to compete in the global marketplace. He has some great ideas, and I know Chairmen Goedde and Nonini are ready to aggressively push ahead as well. So I'm recommending a general fund appropriation of more than \$1.36 billion to advance our educational goals and meet all the statutory requirements for public education.

With that level of funding, Tom is prepared to cover the cost

of a safe school study, while providing more than \$5 million for classroom supplies and almost \$10 million for textbooks.

For our colleges and universities, I am recommending a general fund appropriation of more than \$275.6 million. That includes \$12.9 million to help make salaries more competitive.

Speaking of our universities – **HOW ABOUT THOSE BRONCOS!!** Congratulations to President Kustra, Coach Petersen and everyone involved at Boise State for their great victory in the Fiesta Bowl.

Now the whole country knows what Idahoans have known all along: The kind of pride, determination and competitive spirit the Broncos showed against Oklahoma last week is what makes our state motto ring so true. Around here, **Esto Perpetua** is more than a slogan; it's a way of life.

Before I go any further, I want to recognize the work, achievements and contribution of an Idahoan who made a great difference in the life and culture of our state while earning a national reputation for his leadership.

Dan Harpole was executive director of the Idaho Commission on the Arts. Tragically, cancer claimed Dan's life on December 29th. Idaho lost a tremendous advocate for the arts, and a man who turned the Idaho commission into a national model of a state arts agency.

Dan recently was awarded the Chairman's Medal from the National Endowment for the Arts in recognition of his – and I quote – “nationwide service as an outstanding public leader, an inspiring public spokesman, and a tireless and devoted public servant.”

I speak for all Idahoans in expressing sorrow at his passing, and deep sympathy and condolences to his family members. With us today are Dan's children, Hunter and Fiona, and their mother Kerri. ... Thank you.

As the arts benefit the human spirit, there are few programs that state government supports with greater potential for benefitting Idaho's economy than higher education. Educating our citizens, meeting the needs of business for trained employees, and supporting Idaho industry and our society at large through research are only a few of the ways that our colleges and universities benefit the state.

It's an important investment in our future, so I'm recommending that higher education be among our top priorities for using the one-time money available in fiscal 2008.

Idaho has an impressive high school graduation rate, but the percentage of Idaho high school graduates who go on to college is among the nation's lowest. One good way to help is by providing scholarships for those students who can least afford to go to college. So I am recommending that \$38 million be used to create a needs-based scholarship endowment for Idaho students.

The earnings from this endowment will provide at least \$2 million per year for needs-based scholarships.

Another way of increasing access to higher education is expanding community college opportunities.

The Legislature, the State Board of Education and business leaders throughout Idaho have been studying how best to meet the pressing needs of our people and our economy.

I agree with them that first and foremost we must maintain local control over our community colleges. I also agree that we already have the legal framework in place to create additional community college districts with the support of local voters.

In addition, I support providing the option of lowering the voter approval requirement for establishing community college districts from two-thirds to 60 percent – IF the vote is held in conjunction with general elections. If they choose some other date for the election, the two-thirds requirement should remain in place.

As a carrot, I am recommending \$5 million in ongoing state support for establishing a new community college district. That's the same level of state support now going to each of our existing community colleges. And if more than one new district is created during the next year, I'll support a supplemental appropriation in the 2008 legislative session providing the same level of support for those additional districts.

There also has been considerable discussion about how to best deal with the shortage of trained nurses. Lieutenant Governor Risch had the right idea. But rather than bonding for them, my recommendation is to provide \$37 million for new buildings to house nursing education at Lewis-Clark State College and the College of Southern Idaho.

Friends, Idaho families work hard to avoid running up credit card debt. We must do the same. If we have the money, let's pay for our responsibilities as we go rather than financing them into the future.

Another way in which higher education helps stimulate our economy is through research. I am recommending a one-time increase of \$15 million for the Higher Education Research Council for research projects that facilitate economic development. That includes research being conducted by our three universities at the Center for Advanced Energy Studies, a joint venture between the universities and the Idaho National Laboratory.

Finally, Idaho's dairy industry has experienced amazing growth. The value of Idaho dairy exports has more than doubled in the past three years alone. However, our primary education and research programs benefitting the dairy industry are in Moscow, while the heart of the industry is in the Magic Valley.

That's why I'm recommending \$10.9 million to help support a collaborative effort between the dairy industry and the University of Idaho, along with other state and federal agencies, to establish a dairy and animal research and education facility in the Magic Valley.

That lab complex will substantially improve Idaho's ability to research and manage the health of all Idaho livestock and wildlife that hasn't already been killed by our exploding wolf population, while consolidating programs for greater efficiency.

One of the qualities drawing the dairy industry and other businesses to Idaho is our water. Our river systems and aquifers are the lifeblood of our economy. Managing them wisely is the key to our future success. We are fortunate to have the able and seasoned leadership of Chairmen Stevenson and Schroeder in advancing that commitment to progressive management.

Soon the Idaho Supreme Court will rule on our water management practices and priorities. When it does, I urge you to join me in acting quickly and decisively to enact the necessary changes to our state rules and laws to ensure Idaho's water is preserved, protected and put to work appropriately for the beneficial uses of our people.

As if legal issues weren't enough of a threat to our water, we continue to face the plague of noxious weeds infesting our waterways and over 8 million acres of our land mass. The annual cost of that infestation is about \$300 million, and right now we're only able to treat about 130,000 acres a year. That is simply unacceptable.

So my recommendation is for \$6 million to fight noxious weeds, plus \$4 million to continue battling the choking effects of Eurasian water milfoil.

Preserving our natural resources is imperative. But nothing is more important than providing for the safety of our citizens. The need to get violent offenders off our streets is particularly important. That's why I'm calling for a shift in existing resources to fund the 242 new beds recently added at the state prison complex south of Boise.

I recognize that still more space is needed, but I also am concerned about the high cost of building new prisons. As we explore more cost-effective means of housing inmates, I am recommending funding for a new so-called "sprung" structure to expand our prison capacity.

Structures made of stressed membrane over an aluminum framework are relatively inexpensive and have a long life. I'm hopeful they may help meet our need for additional prison space at a substantially lower cost than traditional facilities.

In addition, I will ask Chairmen Darrington and Clark to join me in exploring other innovative ways to address prison crowding – including the Pro Tem's idea for hot-bunking.

The biggest contributing factor to our growing prison population is drug and alcohol abuse. Therefore, I am recommending \$865,000 in one-time funding to help create a sobering and detoxification center to serve the state's largest population center, the Treasure Valley. This funding is a matching contribution for a coordinated effort by cities, counties, hospitals and the United Way of Treasure Valley.

While I'm on the topic, let me take this opportunity to recognize the great work that Jim Tibbs has done over the past seven months to catalog and coordinate our state's drug abuse programs. Thank you, Jim.

Jim's leadership has been invaluable. The City of Boise is fortunate that he's decided to focus his considerable energies to an

even greater extent on his role as a member of the City Council. But our commitment to protecting Idahoans from the scourge of methamphetamines and other drugs will not end with Jim's departure. Debbie Field has agreed to bring her experience and talents to bear on the problem. She dealt directly with all the folks responsible for our drug-control policies as chairman of House Judiciary Committee. Along with her obvious skill in shaping public opinion and turning it into action as a campaign manager, Debbie is the ideal person to spearhead the "Not Even Once" effort that I have discussed throughout the state.

Our one-time budget surplus also gives us the chance to finally deal with the need for better communication and coordination between law enforcement agencies throughout Idaho. The problem is aggravated by geographical challenges and lack of equipment compatibility. The solution is costly, with an initial price tag of \$40 million. But the potential public benefits make it a wise investment for taxpayers. We all have learned the lessons of 9/11. We will never forget those lessons, but the time is long overdue for us to apply them.

One of those lessons was the pressing need to secure our national borders. While members of our congressional delegation are working hard to get that done, we must take the initiative here at home to ensure Idaho does not become a haven for those who enter our country illegally. That's why I support Senator John McGee's proposal to require every adult to prove they are valid U.S. residents before collecting taxpayer-funded benefits. His legislation provides reasonable humanitarian exceptions, and it will send a clear message that Idaho will not harbor those who shoplift citizenship.

I want to take just a moment now to recognize the courage, sacrifice and devotion to duty recently exhibited by a member of our Idaho State Police. Trooper Chris Glenn was shot in the neck last month after pulling over an armed-robbery suspect south of Twin Falls. His injury left him paralyzed from the chest down. Trooper Glenn has the deep gratitude of all Idahoans for his heroism and commitment to protecting us. He also has our best wishes for his recovery. And his family members have our pledge to stand by them and all those who go into harm's way on our behalf. With us today are Trooper Glenn's wife Alisha, his father Wade, and his brother David. Thank you for being here.

While valiant public servants like Trooper Glenn protect us here at home, other Idahoans continue to serve across the world in defense of freedom. Three of our fellow Idahoans were lost to combat in Iraq during the past year. Please join me in honoring the sacrifice of Army Corporal James Lee Douglas Bridges of Buhl, Sergeant Jeremy Edward King of Meridian, and Private First Class Jacob Hamilton Allcott of Caldwell.

And let us extend our deep gratitude to the families of those Idahoans who gave their last full measure fighting terrorism and tyranny half a world away.

Here at home, an issue critical to public safety is improving our state highway system. I recommend continuing the GARVEE program by issuing bonds totaling \$264 million. These bonds will be paid off with the continuing appropriation of federal highway funds that are allocated to the state.

However, I am making no recommendation on which routes should be included in the GARVEE program. And I strongly urge you not to identify the transportation priorities, either. That is a job for professionals – not politicians. Given the enormous needs and our scarce resources, we can hardly afford our own "bridges to nowhere."

You also will see legislation to address the Transportation Department's revenue needs. However, I do **NOT** recommend acting on those needs until the department has shown that it is operating efficiently, using the best practices available today, and actively engaging industry in its efforts.

While protecting lives is a primary role of state government, we also have a responsibility to protect the quality of life we live here in Idaho. Thanks to the Risch administration, a milestone in that regard was reached with the Nature Conservancy's recent gift to Idaho of the Ritter Island park property at Thousand Springs. The property and accompanying \$1 million operating endowment is one of the finest gifts that the state has ever received. To complete the acquisition of the Ritter property, I am recommending the appropriation of \$225,000 to purchase the remaining 70 acres and preserve this natural legacy for generations to come.

As I said before, my administration will be customer-driven. Making government more efficient and user friendly is a theme you will hear again and again during my time as governor.

We are more than a collection of agencies with separate missions. We are one state government with a single goal – providing the best service for our citizens at the lowest cost to taxpayers.

To that end, I am proposing significantly reprioritizing and restructuring of state government.

That means reining in our spending on travel. Nothing will ever replace doing business face to face, and I like seeing the folks I'm dealing with as much as the next person. But in an age of high-tech communications we can't justify spending taxpayer dollars on costly out-of-state trips that do little for the people we serve.

Changes also must include thoroughly reforming our state purchasing practices. Our processes today are too costly, too bureaucratic, and exclusionary to the point of stifling valuable competition. The Department of Commerce and Labor is another great example of where reorganizing can help improve our ability to meet customer needs. On the surface, combining Commerce and Labor seemed to make sense. They both work in areas relating to business and jobs. But there also are significant differences in what they do.

Director Roger Madsen has done a great job of leading the Department of Labor and then the combined agencies. Roger is one of many people with whom I've discussed this organizational structure, and support is overwhelming for once again separating the departments.

Roger will continue leading the Department of Labor, and I will recruit a director for the Department of Commerce who will be second to none.

There are few things of greater importance to this state than maintaining a strong and vibrant economy. The Department of Commerce and the person who leads it will help ensure individuals, families and communities throughout Idaho benefit from our continuing economic growth and diversity.

During the coming weeks I look forward to working with all of you on making these recommendations a reality. I want each of you to know that my door is always open, and I am eager for your insight and perspectives.

My colleagues, friends and fellow Idahoans, in the short time since the election I have tried to make the best decisions and offer the best recommendations possible. But God knows, I'm a long way from perfect. So I'm asking for your patience, your forbearance and your help in improving on what I've presented to you here today.

That being said, I'm proud to proclaim that our great State of Idaho stands on a firm foundation, offering the means and the opportunity for everyone to meet their own best potential, and braced with optimism for the continuing challenges of growth and change.

Please join in me in working to make Idaho even better. Together, we can prepare Idaho to become what America was meant to be.

The Speaker thanked Governor Otter for his message. The committee came forward and escorted the Governor from the House Chamber to the House Gallery.

At this time Speaker Denney introduced Chief Justice Gerald F. Schroeder who delivered the following **State of the Judiciary Address** to the Joint Session:

Governor Otter, Mr. Speaker, Mr. President, Mr. President Pro Tem, my colleagues on the Supreme Court, Judges of the Court of Appeals, Constitutional Officers, distinguished members of the Senate and House of Representatives, and fellow citizens of Idaho.

This will be the last time I will address this honorable body. After thirty-eight years as a judge in Idaho I will retire sometime this coming summer. I will retire three blocks from where I was born. Hopefully the remarks I make today will not amount to a sentimental journey but will bring forward whatever insight I have into the future based upon having worked in every level of court, serving during the tenures of seven governors, and enjoying the association with the Legislature during four decades. Idaho has retained the personal touch where people mean more than ideologies, quality more than political label and decency more than self-promotion. I have had the honor of being appointed to judicial office by two great governors from opposing parties – Governor Andrus and Governor Batt. I have had the pleasure of growing up in legal life and friendship with former Governor Risch. I will leave the choice of my successor to Governor Otter, a fellow graduate of my college, whom I trust to act in the highest interest of the public.

So far as the House and Senate are concerned I have learned that if public needs are adequately articulated these bodies will act.

Cataloguing the monuments of reform I have seen come through these bodies would be the subject of a semester in law school. Good people have risen to the top and have done good things.

Last year the Legislature took an unprecedented step in adding four new magistrate judge positions and two new district judgeships. With the public pounding at the courthouse doors for resolution of its legal problems this was a tremendous step. Together with the senior judge programs it translates into timely justice.

The agenda that the Court has this year is short, but the consequences are significant for the future.

To the extent funding and personnel allow, the drug courts will continue to grow. There is a consensus on the validity of these programs both in terms of human values and economy.

The Legislature has been aggressive and creative in addressing funding, and we look to you for continued support. In conjunction we hope to expand mental health courts which often partner for solutions with the drug courts in providing incredible savings as alternatives to the high cost of prison for offenders and hospitalization of their damaged babies.

We will renew our requests for legislation to insure the stability of the judicial retirement fund. This is critical for financial responsibility and for the recruitment of the type of people you want to enter the judiciary.

Over twenty-five years ago there was a major effort to solve the burgeoning appellate caseload that threatened to delay the public's business. After an extensive study the Court recommended the creation of a Court of Appeals to handle cases assigned to it by the Supreme Court, and the Legislature approved the concept.

There have been no changes in the Court of Appeals since its creation. It operates with the same number of judges and staff as it did in the 1980's. But its caseload is over three and a half times greater than when it began. Rather than come to this body this year saying we need another judge or two, we have initiated a study to determine what may be necessary for the long term.

The Dean of the Idaho Law School, Don Burnett, has agreed to chair the Blue Ribbon panel that will conduct this analysis. The Dean was a driving force in the creation of the Court of Appeals and served on the Court itself. He was both an architect and builder of an institution that has done far more than should have been expected of it. When the Court comes back to the Legislature it will be with something that is practical and farsighted.

Recently we began analyzing the idea of moving the law library that the Court maintains. This was a space and security issue, but as we thought about it other potentials emerged. Could this evolve into a learning center that would reach out to the law school and the needs of the other colleges and universities in the State?

We share many common interests with each of our schools. We have utilized most of the schools for studies, academic expertise. Law does not exist apart from history, science

economics, sociology, psychology. Education should not exist apart from life as it is actually lived.

There is the potential of drawing disparate elements of our intellectual system together to create something unique in the country – an apprentice program that opens the mysterious doors of the legal system to undergraduates who may learn and benefit – a system that allows advanced students at the law school to learn at the highest level.

I am not talking about moving the law school to Boise – I want to retire with all my body parts still intact. What we have is a potential of partnering with the practical and intellectual interests that cross over to the benefit of all. It is time to open our imaginations and the dialogue.

Last year the Legislature increased judicial salaries. It moved the Supreme Court from 49th in the country to 47th and maintained the trial courts at 47th. We will be asking for an increase this year. I'm not going to talk much about statistics. I am going to talk about the realities of what you expect from judges.

Magistrate Judges routinely deal with caseloads that would have been unthinkable when I started as a judge, but it goes beyond numbers. They routinely tell a person that he or she is going to lose custody of a child, the most precious thing in that person's life.

They routinely must take a person's freedom, deprive a person of a livelihood because he or she cannot be licensed to drive, determine multi-million dollar probates, wrestle for solutions for abused children, fashion sentences for juvenile offenders, attempting to guess the future consequences, and on and on.

District Judges routinely must decide the most difficult civil litigation, often times determining the life or death of a business and the financial future of individuals who have been terribly injured. They clean up the social garbage created by psychopaths, sociopaths, child molesters. They must stand against pressure when constitutional guarantees demand a result that is different from cries of vengeance – and they suffer from that. Ultimately they may be required to face another human and say "you must die." I have done that. I have stood closer than I am to any legislator in this room and looked a man in the eye I sentenced as he was executed.

And we are paid less than many deputy prosecutors, assistant city attorneys, law school professors, deans in universities – and those folks aren't overpaid.

The public expects judges to be intellectually superior, to isolate themselves from normal social contacts, to forego normal business opportunities. The age and experience requirements ask lawyers in the prime of their experience to give up much more lucrative opportunities. Persons such as myself, retired Judge Schwartzman, retired Judges Ray Durtschi and George Reinhardt, sitting federal district judge Ed Lodge would not have been eligible to enter the judiciary under present requirements. The number of applicants for judicial positions does not tell the story.

The reality is that the pool of candidate that you want to see is shrinking. Professional requirements, caseloads and compensation, the reality of costly elections after giving up other financial opportunities, are all taking their toll.

The comment is made that the salary of a Supreme Court Justice seems like a lot of money in the small communities. Whatever the validity of that perception, I will comment on the consequences of it. It is desirable to have geographical balance on the Court. In the past that existed. Over time that reality has faded. Many lawyers from outside the Boise area simply cannot afford to give up their homes and move to Boise.

In the past Justices on the Supreme Court tended to remain for many years. That is no longer the case. Turnover on our Court has become almost routine.

Idaho is extremely fortunate to have the persons on the Court who are my colleagues. It has been several years since I introduced them, and many in the House and Senate may not be familiar with them.

Vice Chief Justice Linda Copple Trout traveled to every county in the state as Chief Justice listening and learning from local officials and citizens, bringing that message back to the Court. She has been at the forefront of increasing access to the courts for persons who would otherwise be closed out.

Justice Daniel Eismann is a distinguished, highly decorated combat veteran who brings an incredible level of intellectual discipline to the Court. He was a pioneer on the drug courts and relentlessly pursues improvement in the legal process.

Justice Roger Burdick has brought a vast depth of legal and judicial experience to the Court as a former prosecutor, public defender, magistrate, district judge and administrative district judge, including a distinguished term as the Snake River Basin Adjudication judge. His common sense and understanding of people are invaluable assets not often found.

Justice Jim Jones is another highly decorated combat veteran -- the classic citizen who has served his Country and State in war and in peace as Attorney General. He brought the Court a deep commitment to doing the right thing, backed up by a legal career of exceptional depth and distinction.

Judges throughout the state have stepped up to the challenges of extreme social change, increasingly complex caseloads and the expanding expectations that people have for solutions from the courts. They are doing the best they can with what they have. Help them out the best you can. You'll be proud of them, and they will serve this State well.

The Speaker thanked Chief Justice Schroeder for his remarks.

The committees came forward and escorted the Governor, the Supreme Court Justices, Appellate Court Judges, and the elected officials to their chambers and offices respectively, and were, on their return, thanked and discharged by the Speaker.

On motion by Representative Moyle, seconded by Representative Jaquet, by voice vote the State of the State and Budget Address was ordered spread upon the pages of the House and Senate Journals.

On motion by Representative Moyle, seconded by Representative Jaquet, by voice vote the Joint Session was dissolved.

The appointed committee came forward and escorted the Senators from the House Chamber.

The members of the Senate returned to the Senate Chamber.

The Senate reconvened at 2:15 p.m., pursuant to recess, President Risch presiding.

Prior to recess the Senate was at the Twelfth Order of Business, Second Reading of Bills.

Roll call showed all members present except Senators Cameron, Gannon, Geddes, Goedde, and McGee, absent and excused.

On request by Senator Davis, granted by unanimous consent, the State of the Judiciary Address was ordered spread upon the pages of the Senate Journal.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

Motions and Resolutions

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the following committee assignments were approved for the Fifty-ninth Idaho Legislature:

AGRICULTURAL AFFAIRS (9)

Gannon, Chairman

Heinrich, Vice Chairman

Schroeder	Stennett
McGee	Kelly
Corder	
Hill	
Siddoway	

COMMERCE AND HUMAN RESOURCES (9)

Andreason, Chairman

Coiner, Vice Chairman

Cameron	Werk
Stegner	Bilyeu
Davis	
Goedde	
Broadsword	

EDUCATION (9)

Goedde, Chairman

Fulcher, Vice Chairman

Schroeder	Burkett
Gannon	Malepeai
Pearce	
Jorgenson	
Bastian	

FINANCE (10)

Cameron, Chairman

Keough, Vice Chairman

Richardson	Werk
Broadsword	Bilyeu
Fulcher	
Bastian	
Bair	
Hammond	

HEALTH AND WELFARE (9)

Lodge, Chairman

Broadsword, Vice Chairman

Darrington	Werk
McGee	Kelly
Coiner	
Bair	
Hammond	

JUDICIARY AND RULES (9)

Darrington, Chairman

Richardson, Vice Chairman

Davis	Burkett
Lodge	Kelly
Jorgenson	
Hill	
McKague	

LOCAL GOVERNMENT AND TAXATION (9)

Hill, Chairman

Corder, Vice Chairman

Stegner	Langhorst
McKenzie	Bilyeu
Siddoway	
Heinrich	
McKague	

RESOURCES AND ENVIRONMENT (9)

Schroeder, Chairman

Pearce, Vice Chairman

Cameron	Stennett
Little	Langhorst
Andreason	
Coiner	
Siddoway	

STATE AFFAIRS (9)

McKenzie, Chairman

Jorgenson, Vice Chairman

Darrington	Stennett
Geddes	Malepeai
Davis	
Stegner	
Little	

TRANSPORTATION (9)

McGee, Chairman

Hammond, Vice Chairman

Keough	Langhorst
Geddes	Malepeai
Little	
Corder	
Heinrich	

At this time, the Senators selected their seats pursuant to Senate Rule 3(B). On request by Senator Davis, granted by unanimous consent, the seats, as presently occupied, were permanently assigned to the Senators for the Fifty-ninth Idaho Legislature.

On request by Senator Davis, granted by unanimous consent, the President appointed a committee consisting of Senator Schroeder, Chairman, and Senators McKenzie and Burkett to notify the Governor that the Senate is now re-organized and ready to conduct business.

The committee was excused.

On request by Senator Davis, granted by unanimous consent, the President appointed a committee consisting of Senator Goedde, Chairman, and Senators McKague and Malepeai to notify the House of Representatives that the Senate is now re-organized and ready to conduct business.

The committee was excused.

The committee appointed to wait upon the Governor returned and reported that the Governor sent his best wishes to the Senate members.

The committee was discharged.

The committee appointed to wait upon the House of Representatives returned and reported that they had conveyed the message to the House and the House expressed their best wishes for a productive session.

The committee was discharged.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 4:35 p.m. until the hour of 11:30 a.m., Tuesday, January 9, 2007.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary